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Attorney for PACIFIC UNION FINANCIAL, LLC

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:	§ CASE NO. 18-53908-PMB
	§
JOSHUA WILLIAM WADDELL,	§
Debtor	§ CHAPTER 7
	§
PACIFIC UNION FINANCIAL,	§
LLC,	§
Movant	§ CONTESTED MATTER
	§
v.	§
	§
JOSHUA WILLIAM WADDELL;	§
WILLIAM J. LAYNG, JR.,	§
Trustee	§
Respondents	§

MOTION OF PACIFIC UNION FINANCIAL, LLC FOR RELIEF FROM STAY OF ACTION AGAINST DEBTOR PURSUANT TO 11 U.S.C. § 362(a) AND WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO § 362(e)

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW PACIFIC UNION FINANCIAL, LLC, Movant, by and through the undersigned attorney, and moves the Court as follows:

1. This Motion is brought pursuant to 11 U.S.C. §362(d) in accordance with Rule 4001 of the Bankruptcy Rules.
2. On or about March 06, 2018, JOSHUA WILLIAM WADDELL (hereinafter "Debtor") filed a petition for an order of relief under the Bankruptcy Code. The case was

subsequently converted to a case under Chapter 7 of the Bankruptcy Code on July 17, 2018.

3. At the time of filing the Chapter 7 petition, Movant held a Note executed on March 16, 2015, by JOSHUA W. WADDELL in the original amount of THREE HUNDRED FORTY-SEVEN THOUSAND NINE HUNDRED EIGHTY-FIVE DOLLARS AND ZERO CENTS (\$347,985.00) with interest thereon at the rate of 3.875% per annum. A true and correct copy of the Note is attached hereto as Exhibit "A".

4. The indebtedness is secured by a Security Deed dated March 16, 2015 and executed by JOSHUA W. WADDELL on real estate with all improvements known as:

ALL THAT TRACT OR PARCEL OF LAND LYING AND BEING IN LAND
LOT 129 OF THE 8TH DISTRICT, FULTON COUNTY, GEORGIA, AND
BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN IRON PIN FOUND MARKING THE INTERSECTION OF
THE SOUTHERLY SIDE OF WHITESIDE ROAD AND THE EAST LINE OF
LAND LOT 129; RUNNING THENCE SOUTH 02 DEGREES 04 MINUTES
22 SECONDS WEST ALONG THE EAST LAND LOT LINE, 945.35 FEET TO
AN IRON PIN FOUND; THENCE NORTH 88 DEGREES 23 MINUTES 06
SECONDS WEST, 459.77 FEET TO AN IRON PIN PLACED; THENCE
NORTH 01 DEGREE 40 MINUTES 01 SECONDS EAST, 993.74 FEET TO AN
IRON PIN PLACED ON THE SOUTHERLY SIDE OF WHITESIDE ROAD;
THENCE EASTERLY ALONG THE SOUTHERLY SIDE OF WHITESIDE
ROAD, 470.3 FEET TO AN IRON PIN FOUND AND THE POINT OF
BEGINNING.

MORE COMMONLY KNOWN AS: 12430 WHITESIDE ROAD, PALMETTO,
GEORGIA 30268

A true and correct copy of the Security Deed is attached hereto as Exhibit "B". There is no other collateral securing the debt.

5. Debtor failed to maintain current the payments due under the Note and as of August 09, 2018, Debtor is in arrears for:

3 payment(s) which represents payment(s) for May 01, 2017 through July 01, 2017 (\$2,817.36 each) totaling \$8,452.08

12 payment(s) which represents payment(s) for August 01, 2017 through July 01, 2018 (\$2,785.37 each) totaling \$33,424.44

1 payment(s) which represents payment(s) for August 01, 2018 through August 01, 2018 (\$2,733.36 each) totaling \$2,733.36

Less debtor suspense funds of \$0.00 for total arrears of \$44,609.88

6. The outstanding indebtedness to Movant is \$334,399.91 principal plus accrued interest, late charges, attorneys fees and costs as provided in the Note and Security Deed.

According to the Fulton County Tax Assessor, the value of the property is \$349,700.00.

There is no equity in the Property.

7. In accordance with the terms of the Note and Security Deed, Movant would allege that it is entitled to reasonable attorneys fees, including, but not limited to, fees, if any, for the preparation and filing of a proof of claim and fees and costs for the filing of this Motion for Relief from Stay.

8. Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay of 11 U.S.C. §362(e).

9. By reason of the foregoing, Movant requests the Court to terminate the stay so Movant may proceed to foreclose in accordance with its Note and Security Deed.

10. Movant reserves the right to assert an 11 U.S.C. § 362(d)(2) Cause of Action, if appropriate, at the hearing on Movant's Motion for Relief.

WHEREFORE, Movant prays that this Court enter an Order, after notice and hearing, terminating the automatic stay as to Movant and waives right to hearing within thirty (30) days as provided by 11 U.S.C. § 362(e); alternatively Movant may be made whole by having all payments, fees and costs brought current. Movant further prays that the Court waive the

provision of Rule 4001(a)(3) and that Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay; that Movant be awarded its reasonable attorneys fees and expenses for this Motion; and, that Movant be granted such other and further relief as is just.

Respectfully submitted,

BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP

BY: /s/ BRANDI R. LESESNE 08/13/2018

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ATTORNEY FOR MOVANT

CERTIFICATE OF SERVICE

I hereby certify that on August 13, 2018, true and correct copy of the foregoing Notice of Hearing and Motion for Relief from Stay as to Debtor was served via electronic means as listed on the Court's ECF noticing system or by regular first class mail to the parties on the attached list.

Respectfully submitted,

**BARRETT DAFFIN FRAPPIER
TURNER & ENGEL, LLP**

/s/ BRANDI R. LESESNE

08/13/2018

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12430 WHITESIDE ROAD
PALMETTO, GA 30268

TRUSTEE:

WILLIAM J. LAYNG, JR.
2451 CUMBERLAND PARKWAY
SUITE 3477
ATLANTA, GA 30339-6157

DEBTOR'S ATTORNEY:

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2859 PACES FERRY RD, SE
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PARTIES IN INTEREST:

INTERNAL REVENUE SERVICE
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PARTIES REQUESTING NOTICE:

DANIEL M. McDERMOTT
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